

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: BPS DIRECT, LLC, AND
CABELA'S, LLC, WIRETAPPING

: MDL 3074
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: E.D.Pa. ACTION NOS.:
: 23-md-3074
: 22-cv-4709
: 23-cv-2282
: 23-cv-2287
: 23-cv-2293
: 23-cv-2294
: 23-cv-2295
: 23-cv-2306
: 23-cv-2338
: 23-cv-4008

ORDER

AND NOW, this 5th day of December 2023, upon considering the Motions to dismiss (ECF No. 54 and ECF Nos. 38-39 in No. 23-4008), lead Plaintiffs' and David Irvin's Oppositions (ECF No. 56 and ECF No. 47 in No. 23-4008), Replies (ECF No. 57 and ECF No. 52 in No. 23-4008), following oral argument, and for reasons in today's accompanying Memorandum, it is ORDERED Defendants' Motions (ECF No. 54 and ECF No. 38 in No. 23-4008) are GRANTED requiring:

1. We **dismiss** Brittany Vonbergen, Gregory Moore, Jr., Brian Calvert, Arlie Tucker, Timothy Durham, and Marilyn Hernandez's claims for damages with prejudice;
2. We **dismiss** all plead claims for injunctive relief with prejudice;
3. We **dismiss** Heather Cornell, Peter Montecalvo, and David Irvin's claims for damages without prejudice to their filing amended Complaints on or before **January 5, 2024** if they can specifically plead standing based on the sharing of highly sensitive personal information such as a medical diagnosis or financial data from banks or credit cards;

4. We **stay** until further Order the parties' prospective obligations regarding discovery including in our October 23, 2023 (ECF No. 67), November 17, 2023 Order (ECF No. 81), and November 27, 2023 Order (ECF No. 82), as well as fee and costs reporting, expert disclosure, and class certification obligations in our July 26, 2023 Order (ECF No. 52), but counsel remain obligated to follow our Policies and Procedures as to conferring before moving for relief, maintaining and preserving records including billing records (ECF No. 52 at ¶ 4), and addressing a Rule 408 demand and response and timely moving for summary judgment (*Id.* at ¶¶ 10, 21) should Plaintiffs file an amended Complaint.



KEARNEY, J.